

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.22382 of 2006

Dated:30.10.2006

Between:

Velga Venkata Subrahmanyam, and others.

...Petitioners

and

The Superintendent of Police, and others.

...Respondent

HON'BLE SRI JUSTICE V.V.S.RAO

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ORDER:

The five petitioners belong to one family. The second petitioner is the wife of the first petitioner and petitioners 3 to 5 are children of petitioners 1 and 2. It appears there is a civil dispute between the petitioner and the third respondent, being O.S.No.112 of 1984, for injunction, which ended in favour of the petitioners. The same was also confirmed by the appellate Court in A.S.No.14 of 1993 on the file of the Court of the Senior Civil Judge, Tadepalligudem. It is alleged that the third respondent filed a complaint before the second respondent on 15.06.2006 alleging trespass by the petitioners. The complaint was registered as Crime No.74 of 2006 of Rural P.S.Tadepalligudem, under Sections 447, 427, 506(2) read with Section 34 of the Indian Penal Code, 1860 (IPC). The petitioners allege that the second respondent in collusion with the third respondent started harassing them, arrested them on 15.06.2006 and confined in the Police Lockup. Subsequently, the learned Judicial Magistrate of First Class granted bail to them. In this background the petitioners further seek a mandamus declaring the action of the respondents in interfering with the life and liberty of the petitioners as illegal and arbitrary. In support of the prayer they allege that at the

instance of the third respondent the second respondent has been sending constables to the petitioners who are constantly keeping surveillance on the petitioners.

There is no denial that a cognizable offence under Sections 447, 427, 506(2) read with Section 34 of IPC is already registered against the petitioners. The same is being investigated. Now that the petitioners are statedly released on bail by the criminal Court competent to take cognizance of the offence, unless and until the petitioners are required for the purpose of investigation, the second respondent cannot unnecessarily interfere with their daily life. Secondly, even if the petitioners are required in connection with the investigation, respondents 1 and 2 are directed to strictly comply with the requirements to be followed in such cases as laid down by the Supreme Court in para 35 of the judgment in **D.K.Basu v. State of W.B.**^[1], which read as under.

35. We, therefore, consider it appropriate to issue the following requirements to be followed in all cases of arrest or detention till legal provisions are made in that behalf as preventive measures :

(1) The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations. The particulars of all such police personnel who handle interrogation of the arrestee must be recorded in a register.

(2) That the police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness, who may either be a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be countersigned by the arrestee and shall contain the time and date of arrest.

(3) A person who has been arrested or detained and is being held in custody in a police station or interrogation centre or other lock-up, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee.

(4) The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or and

through the Legal Aid Organisation in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.

(5) The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.

(6) An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the police officials in whose custody the arrestee is.

(7) The arrestee should, where he so requests, be also examined at the time of his arrest and major and minor injuries, if any, present on his/her body, must be recorded at that time. The "Inspection Memo" must be signed both by the arrestee and the police officer effecting the arrest and its copy provided to the arrestee.

(8) The arrestee should be subjected to medical examination by a trained doctor every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by Director, Health Services of the concerned State or Union Territory, Director, Health Services should prepare such a panel for all Tehsils and Districts as well.

(9) Copies of all the documents including the memo of arrest, referred to above, should be sent to the Illaqa Magistrate for his record.

(10) The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.

(11) A police control room should be provided at all district and State headquarters, where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest, within 12 hours of effecting the arrest and at the police control room it should be displayed on a conspicuous notice board.

These observations would be sufficient redressal for the petitioners.

The Writ Petition, with the above observations, is accordingly disposed of. No costs.

(V.V.S.RAO, J)

30.10.2006

vs

[\[1\]](#) (1997) 1 SCC 416